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W. Luyser  
7/15/03**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: H. TAKAHASHI *et al.*  
Serial No.: 09/811,606  
Filed: March 20, 2001  
For: MAGNETORESISTIVE SENSOR INCLUDING  
MAGNETIC DOMAIN CONTROL LAYERS  
HAVING HIGH ELECTRIC RESISTIVITY, MAGNETIC  
HEAD AND MAGNETIC DISK APPARATUS  
Group: 2652  
Examiner: J. Watko  
Conf. No.: 3900

**RESPONSE TO ELECTION REQUIREMENT**

Assistant Commissioner for Patents  
POB 1450  
Alexandria, VA 22313-1450

1 July 2003

Sir:

In response to the Office Action mailed 1 May 2003 in connection with the above-identified application and including a requirement for election of species, the following traversal remarks and provisional election are respectfully submitted.

**PENDING CLAIMS**

Claims 1-18 and 20 were pending, under consideration and subject to examination in the Office Action, and Claim 19 as withdrawn from consideration. At entry of this paper, Claims 1-20 remain pending for further consideration in the application.

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**CLAIM FOR PRIORITY**

Applicant respectfully submits that a claim for foreign priority under 35 USC §119 and certified copy of the foreign priority document were submitted 20 March 2001 in the present application. Acknowledgment of the completion of requirements for Applicant's claim for foreign priority is respectfully requested.

**ALL PRIOR ARGUMENTS INCORPORATED BY REFERENCE**

All statements made in the Office Action mailed 1 May 2003 are traversed, and all statements made in the Amendment filed 28 February 2003 are incorporated herein by reference.

**REASONABLE NUMBER OF SPECIES, WITH GENERIC CLAIM**

As traversal, 37 CFR §1.141 provides that more than one species of an invention, not to exceed a reasonable number, may be specifically claimed in different claims in one application providing the application also includes an allowable generic claim to all of the claimed species and all claims to the species in excess of one are written in dependent form or otherwise include the limitations of an allowable generic claim. Since Applicant believes that at least Claims 1, 18 and 20 are allowable and generic, and that all other pending claims contain the limitations of such generic claims, Applicant respectfully submits that the election of species requirement should be withdrawn and all claims considered and allowed.

Further, as set forth in the Amendment filed 28 February 2003, if a search and an examination of an entire application can be made without serious burden, the Examiner must examine the application on the merits even though the application

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includes claims to distinct or independent inventions. It is respectfully submitted that a serious burden cannot be shown owing to the fact that the claims are related as set forth in the Amendment filed 28 February 2003.

Applicant again traverses the restriction requirement made in the 30 January Action as well as the election requirement made in the 1 May Action, and courteously submits that both requirements should be withdrawn, and all claims presently pending in the application should be considered and examined.

#### PROVISIONAL ELECTION

In order to comply with the election of species requirement, Applicant provisionally elects, with traverse, for prosecution on the merits, Species D, Figure 6, which includes at least Claims 1, 4, 7, 10 and 13-16. At least Claims 1, 18 and 20 are believed to be generic.

#### NO ADMISSION - RESTRICTION/ELECTION

Applicant submits that the instant response (including the comments submitted and the provisional election) is not an admission on the record that the respective species are separately distinct species and/or obvious variants.

#### CONTINUATION(S)/DIVISIONAL(S) FOR NON-ELECTED SUBJECT MATTER

Despite any traverse set forth in other parts of this paper regarding any Restriction/Election, one or more continuation/divisional application may be filed to pursue subject matter not elected in the present application. Applicant submits that

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any filing of continuation(s)/divisional(s) should not be taken as any prejudice, admission or disclaimer that the Restriction/Election is correct, but instead, is merely use of separate applications to move the other subject matter through the patenting process.

### **CONTINUATION(S)/DIVISIONAL(S) - DOUBLE PATENTING PROHIBITED**

Regarding any related continuation/divisional application(s) filed to pursue subject matter identical to or consonant with Restriction/Election subject matter not elected in the present application, it is respectfully submitted that the third sentence of 35 U.S.C. §121 as well as MPEP §804.01 prohibit any double-patenting rejection between this and the related continuation/divisional applications.

### **EXAMINER INVITED TO TELEPHONE**

The Examiner is invited to telephone the undersigned at the local D.C. area number 703-312-6600, to discuss an Examiner's Amendment or other suggested action for accelerating prosecution and moving the present application to allowance.

### **CONCLUSION**

Filed concurrently herewith is a Petition for extension of the shortened statutory period set by the Office Action mailed 1 May 2003. To whatever other extent is actually necessary, Applicant petitions for an extension of time under 37 C.F.R. §1.136.

Submitted with the Petition is a Form PTO-2038 authorizing payment of the requisite Petition fee. Please charge any shortage in the fees due in connection with

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the filing of this paper to ATS&K Deposit Account No. 01-2135 (as Order No. 520.39871X00).

Respectfully submitted,



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Concurrent Submissions:  
Petition for Extension of Time  
Form PTO-2038 (Fee Code 1251)